

TOWN OF NEW WINDSOR

PLANNING BOARD

November 17, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
DANIEL GALLAGHER  
HOWARD BROWN  
HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

JENNIFER GALLAGHER  
BUILDING INSPECTOR

ABSENT: NEIL SCHLESINGER  
HENRY VAN LEEUWEN  
NICOLE JULIAN,  
PLANNING BOARD SECRETARY

REGULAR MEETING:

MR. ARGENIO: I'd like to call to order the November 17, 2010 meeting of the Town of New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

APPROVAL OF MINUTES DATED 9/29/10

MR. ARGENIO: Motion to approve the minutes as distributed.

MR. BROWN: So moved.

MR. FERGUSON: Second it.

ROLL CALL

MR. BROWN AYE

November 17, 2010

MR. FERGUSON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

November 17, 2010

ANNUAL MOBILE HOME PARK REVIEW:

HILL & DALE PARK

MR. ARGENIO: Annual mobile home park review. Hill & Dale Mobile Home Park, what do you have?

MS. GALLGHER: We were out there and everything's fine.

MR. ARGENIO: Somebody from your office has been out there and everything seems to be acceptable, yes?

MS. GALLGHER: Yes.

MR. ARGENIO: Do you have a check made out in favor of the town for \$250, sir?

MR. HERSCHEL: Yes.

MR. ARGENIO: Your name for the stenographer?

MR. HERSCHEL: Joe Herschel, H-E-R-S-C-H-E-L.

MR. ARGENIO: I'll accept a motion we offer them a one year extension on their permit to operate.

MR. BROWN: So moved.

MR. FERGUSON: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer one year extension on the Hill & Dale Mobile Home Park. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Good luck to you sir. Thank you.

November 17, 2010

REGULAR ITEMS:

COVINGTON ESTATES SUBDIVISION & PUD (10-24)

MR. ARGENIO: First on the regular items Covington Estates subdivision. Proposed PUD and subdivision of

the 120 unit town home project. Just to refresh everybody's memory, what this is is very, very similar to The Grove, this is a zero lot line subdivision as the, whereas the lot lines essentially run with the lines in the building and the partitions in the building. Sir, your name as if I don't know?

MR. WINGLOVITZ: Ross Winglovitz, Engineering Properties.

MR. ARGENIO: Ross, can you share with us a little bit on this?

MR. WINGLOVITZ: Yes, I was here in front of you last month and in front of the Town Board for a referral back for the PUD cause our understanding is the only way we can accomplish this and this being subdividing the 124 individual town homes that were on the approved plan into 124 single fee simple lots each containing a town home was through a PUD approval from the Town Board. So we were here in October, we went to the Town Board who now referred us back here. At this point, there is really no changes to the plan other than the lot lines. We have submitted an EAF, got the referral back, if the board feels it's appropriate we be set for a public hearing regarding the new lot lines at your next available meeting.

MR. ARGENIO: Mr. Winglovitz, let me ask you a direct question, has there been any change at all in the footing locations, foundation locations from the original plan at all?

MR. WINGLOVITZ: Yes, they have been defined there, they were just big squares originally one of the, on advice of Mark is make sure the footprints are defined so we set up the lot lines, they are consistent so we don't do this once and come back and do it all over again. So the buildings are in the same locations, they have been defined and they may have even shrunk a couple feet if anything but all the roads, utilities, everything's in the exact location, the building are now defined instead of the rectangles showing the garages and the entries and decks and so forth. That's

November 17, 2010

it.

MR. ARGENIO: So they have changed?

MR. WINGLOVITZ: Yes.

MR. ARGENIO: In some instances, they've gotten smaller?

MR. WINGLOVITZ: Correct.

MR. ARGENIO: They have not gotten larger?

MR. WINGLOVITZ: Correct.

MR. ARGENIO: Do you guys have any questions on this? This is the same as The Grove, same as The Grove this is the trend nowadays, it results in a better tax benefit to the town.

MR. BROWN: Better financing.

MR. ARGENIO: That's right, makes it easier for them to sell the units because it's easier for the potential buyers to get financing. Mark or Dominic, from a procedural standpoint, what do we need to do with this? I see note three it says SEQRA lead agency coordination letter, I don't know what that means exactly and then the next bullet is GML 239 sub N referral to O.C. Department of Planning. Can you elaborate Mark please?

MR. EDSALL: I just believe those two items need to be verified. I don't know if in the file if there's an acknowledgment that they have been sent out.

MS. GALLGHER: OCDPW, which one?

MR. EDSALL: For the Orange County Department of Planning did that go out?

MS. GALLGHER: 10/21/2010 it went out.

MR. ARGENIO: Have we heard back from them?

MS. GALLGHER: No.

MR. ARGENIO: 10/21 so they have another four days to respond.

MR. EDSALL: So we'll have it by the public hearing, I

6

November 17, 2010

would assume.

MR. ARGENIO: I would imagine.

MR. EDSALL: And lead agency I believe we sent out lead agency letter, I just want to confirm it was mailed.

MR. ARGENIO: 10/21 again there's another four days before that expires.

MR. EDSALL: Just so Mr. Winglovitz is aware we did mail out lead agency and Orange County Planning so we

should be in good shape for the public hearing.

MR. CORDISCO: Yeah, that's the next step procedurally because it's a major subdivision, we have to have a public hearing.

MR. ARGENIO: So it seems to me that it would be appropriate this evening to authorize the scheduling of said public hearing.

MR. CORDISCO: Certainly.

MR. ARGENIO: I'll accept a motion.

MR. GALLGHER: I'd like to make a motion we schedule a public hearing.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded by Howard that we schedule the public hearing for Covington Estates major subdivision for the lot line changes. Roll call.

ROLL CALL

MR. FERGUSON AYE

MR. BROWN AYE

MR. GALLAGHER AYE

MR. ARGENIO AYE

MR. ARGENIO: I don't want to race through this and not give it its due attention but Mark or Dominic, I don't see anything else here that we need to do with this tonight.

MR. CORDISCO: There's nothing.

7

November 17, 2010

MR. EDSALL: Can't do anything else.

MR. CORDISCO: Until we hear back from the county we're not in a position to take any action on this. I would add as a remainder that you have received concept approval from the Town Board.

MR. ARGENIO: I'm sorry?

MR. CORDISCO: That they received concept approval from the Town Board regarding the planned unit development but the way that this process is laid out and works is a little bit cumbersome but eventually as we have done with The Grove is that this board has to have a public hearing on the subdivision and it time you can make a

negative declaration if that's what you so choose to do. And at that point then it gets referred back to the Town Board because the Town Board has to grant final approval for the PUD before they can come back to this board for a final approval on the subdivision. And one additional wrinkle there is and it's an unfortunate one but it's unavoidable is that the Town Board because the Town Board is issuing a special permit the Town Board also has to hold public hearings so there will be two public hearings for this project.

MR. ARGENIO: All of the prior is reserved for another evening, yes?

MR. CORDISCO: Correct.

MR. ARGENIO: Thank you for coming in Mr. Winglovitz.

MR. EDSALL: Ross, did you see on the DOT's letter is there a specific date or just the next available?

MR. ARGENIO: You're going to get ahold of Nicole at Town Hall for the public at the planning board office and you're going to work with her on getting that scheduled and you go from there.

MR. WINGLOVITZ: Very good.

MR. EDSALL: Just Mr. Chairman, Ross, did you get a copy of the DOT's letter of October 27?

MR. WINGLOVITZ: No, I haven't seen it.

MR. EDSALL: I know it came, I will give Ross my copy, if you can just send me another one for the four of the

8

November 17, 2010

five comments appear you'll need to get a highway work permit, the last one has something to do with the priority investigation location and needing to have highway safety investigation, you may want to remind them that this is already approved

MR. WINGLOVITZ: We have an approval subject to us filing the permit.

MR. EDSALL: This is merely a subdivision of something they already approved.

MR. WINGLOVITZ: Thank you.

November 17, 2010

PUBLIC HEARINGS:

NOWICKI SUBDIVISION (07-14)

MR. ARGENIO: Let's get to the public hearing of tonight, we have several public hearings. First of which is Nowicki major subdivision and lot line change. This application proposes the subdivision of the total 116 acres into nine single family residential lots. The application was previously reviewed at the 23 May 2007, 25 June, 2008 and 13 October, 2010 planning board meetings. This application is here tonight for a public hearing. So sir if you can give your name to the stenographer and briefly tell us the hurdles that you have overcome or the progress that you have made since the last time you have been here. We'll open it up to the board if we have any questions we'll certainly ask them and we'll open it up to the public and have the opportunity to comment or ask questions. Your name for Franny please?



MR. MARSHALL: My name is Lawrence Marshall from Mecurio. This is a proposed nine lot subdivision as you previously stated. As far as the hurdles that we have overcome or addressed since the last time that we were in front of this board we have addressed in writing all of the comments that we had received from your engineer and we have not received any comment back whether or not the changes that we made were acceptable.

MR. ARGENIO: What are those changes?

MR. MARSHALL: Particularly we have at the request, there were several comments that were made that were not able to be addressed at this time due to procedure purposes just as far as the wetland disturbance permit just an update on that we're not able to submit a full wetlands disturbance permit until we receive preliminary approval, DEC will not deem the application complete and will not begin reviewing that, that's my understanding of that.

MR. ARGENIO: Is that true, Mark?

MR. EDSALL: Yeah, I mean they treat it very similar to Department of Health.

MR. ARGENIO: Similar to the septics.

10

November 17, 2010

MR. EDSALL: They want to see a preliminary.

MR. ARGENIO: Is that new? I have not heard that, I don't remember hearing that at least in recent memory.

MR. EDSALL: I know that DEC looks both for the preliminary but also a negative dec as part of the processing of the application so Larry's absolutely correct that it would be more timely to go to them once he has the negative dec and the preliminary resolution but they had some preliminary discussions with DEC and they have adjusted things so it's something I kept on the comments under the radar so they can update the board at each appearance.

MR. ARGENIO: Go ahead, Mr. Marshall.

MR. MARSHALL: Yeah, regarding Mark's comments quite some time ago we did submit the plans for preliminary approval, they requested some changes be made to the driveway locations coming out on Station Road which we have made. We have not resubmitted just for the purpose of, if the procedures regarding the SWPPP request of submitting the SWPPP to DEC we have not

submitted that and the plan is to submit that prior to beginning construction with the new MS4 regulations, we have to get MS4 signoff from you whoever your storm water person is we need a signoff sheet in order to submit an NOI. So we are not able to do that at this point. Regarding the Phase I archeological we have completed that and we have submitted copies to the board, I apologize at the last meeting I was not aware but that was already completed.

MR. ARGENIO: Has that gone to the Office, New York State Office of Historical Parks and Recreation ,et cetera?

MR. MARSHALL: We have not submitted it, they will not take it from us.

MR. ARGENIO: So we have to do that, yes.

MR. EDSALL: Yes, we can do that. I don't know that they, I wasn't aware they wouldn't take it from an applicant. I have seen responses when we haven't sent it but more than happy to put a cover letter on it and send it up. Maybe Jen you can leave a note for Nicole, make sure we have an extra copy we can send up and I will do a cover letter.

11

November 17, 2010

MR. MARSHALL: If their policy has changed, we can certainly send it. I have no problem sending it just in the past we have been requested to have it.

MR. EDSALL: We'll send it up.

MR. MARSHALL: The AG statement was requested which we filled out, completed and submitted, there was some clarification details as far as the labeling of lot nine previously labeled lot eight also regarding showing where the existing lot lines are located and where the new lot lines are going to be located. This is two existing lots, we're the lots, eliminating some lot lines and adding obviously quite a few more. Regarding the highway superintendent, we have contacted him, we have staked out all the proposed driveway entrances along Station Road, we have contacted him and asked him to review the driveway locations. We have not heard back yet. In addition to that, due to the steepness of the driveways we have added--

MR. ARGENIO: I spoke to him today and he's not been out there yet. If you guys remember, I think I made the comment and Neil kind of affirmed it that's a, I mean, there's a lot of water on the side of the road there because of the size of the area it's draining.

Anthony's not been out there yet, he was waiting for you to stake it but he is going to go out there and take a look at it and he will supply us with comments at some point in time.

MR. MARSHALL: Okay, in addition to that, we have added parking areas on the bottoms at the entrances to the proposed lots that do have the steep driveways just in case in the instance of poor weather where there's ice buildup and they can't get up the driveway they have a spot they can pull off. Again, that's an interesting twist.

MR. MARSHALL: There's also been some revisions to the driveway entrance detail just to ensure that the driveways are properly constructed to prevent any storm water runoff from entering onto Station Road.

MR. ARGENIO: Looks like you have swales running alongside them.

MR. MARSHALL: Alongside the driveways.

12

November 17, 2010

MR. ARGENIO: Driveways.

MR. MARSHALL: We do have swales, they are for storm water treatment or conveyance to a storm water treatment practice, you're talking about the ones that are kind of midway up the driveway?

MR. ARGENIO: Yeah, I'm seeing swales alongside the driveway, lot four has a swale alongside of it, so does three, so does six that Danny's pointing out, seven does too. What did you say they are for, water quality, is that what you said?

MR. MARSHALL: They are for storm water treatment as required by the, by DEC's requirements and the Town Code, we have to treat the water that runs off the site because we're disturbing more than one acre.

MR. ARGENIO: Is that MSV stuff?

MR. EDSALL: It's part of the new requirements. Come March 1st, it's going to be even more extensive.

MR. ARGENIO: We're all learning on some level with this.

MR. EDSALL: As soon as you learn it it will change.

MR. ARGENIO: Yeah, okay, what else?

MR. MARSHALL: That I think that concludes the changes that we have made.

MR. ARGENIO: Where is the public notice? On the first of November, 2010, Nicole compared 13 addressed envelopes containing a notice of public hearing that she got from Todd Wiley, the assessor and they were mailed out with a notice of this public hearing for tonight. If anybody would like to speak for or against or ask a question on this application, please raise your hand to be recognized and you'll be afforded the opportunity to speak.

MR. GALLAGHER: Make a motion to close the public hearing.

MR. BROWN: Second it.

MR. ARGENIO: In so much as no hands were raised, motion made and seconded that we close the public

13

November 17, 2010

hearing on Nowicki. Roll call.

ROLL CALL

MR. FERGUSON     AYE  
MR. BROWN        AYE  
MR. GALLAGHER    AYE  
MR. ARGENIO      AYE

MR. ARGENIO: Let's talk about this a little bit. The procedure as I understand it is that this application has to go to the Department of Health. Mark, is that correct?

MR. EDSALL: Yes.

MR. ARGENIO: And for them to go there, what's required of this board to move them to the Orange County Department of Health?

MR. EDSALL: For both the health department and for DEC I would at this time suggest given the status of the plans and the fact that they have responded to comments up to this date that the board consider two actions, one a negative dec and secondly, a preliminary approval.

MR. ARGENIO: Seems to me it's a quality set of plans. Harry or Howard, you guys have any questions on this? They have addressed the things that we have asked and we'll see this again, this is not finality.

MR. BROWN: Move it along.

MR. GALLGHER: Yeah, just highway superintendent he's looking at more sight distance stuff.

MR. ARGENIO: He's looking at, he told me today he's looking at sight distance which he's concerned with and he's looking at the volume of water along the road in the event of a heavy rainstorm so he's covering both.

MR. EDSALL: Just to speak to that from the preliminary and the negative dec standpoint, if Anthony wants driveways shifted, I suggest that the applicant recognize that he should get that resolved before he goes to DEC and of course the health department, it really isn't as critical as far as storm water goes if Anthony wants drainage swales, driveway culverts, whatever else, he's going to require that before final.

14

November 17, 2010

So I don't believe that any of your actions that I am suggesting would be problematic for Anthony's ability to adjust the details.

MR. ARGENIO: Yeah, and for the benefit of the members what he had indicated to me was that what he saw on the plans he was okay with but he just wanted to do a site visit because of the water issue and the sight distance issue, what he was seeing and certainly the quality set of plans seems to me at least.

MR. GALLGHER: Move it along.

MR. ARGENIO: I'd just like to go through Mark's comments briefly.

MR. ARGENIO: What about Orange County?

MR. EDSALL: Local determination. And I did verify if you recall there was a very much larger version of this subdivision, I verified that the plans that they received and responded to were these lots that are proposed now obviously updated now but the number of lots is the same so they did look at effectively the same plan.

MR. ARGENIO: Motion for a negative dec.

MR. BROWN: So moved.

MR. FERGUSON: Second it.

MR. ARGENIO: Motion made and seconded that the Town of New Windsor Planning Board declare a negative dec under the SEQRA process for Nowicki. Roll call.

ROLL CALL

MR. FERGUSON    AYE  
MR. BROWN       AYE  
MR. GALLAGHER   AYE  
MR. ARGENIO     AYE

MR. ARGENIO: Unless anybody takes exception, accept a motion for preliminary final approval of this application.

MR. CORDISCO: Just preliminary.

MR. ARGENIO: Preliminary approval.

15

November 17, 2010

MR. GALLGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded that we offer, that is the Town of New Windsor Planning Board offer preliminary approval to the Nowicki subdivision. Roll call.

ROLL CALL

MR. FERGUSON    AYE  
MR. BROWN       AYE  
MR. GALLAGHER   AYE  
MR. ARGENIO     AYE

MR. ARGENIO: You have been referred sir to the DEC and to the Orange County Department of Health. Good luck to you.

MR. MARSHALL: Thank you very much.

November 17, 2010

SINGH SITE PLAN (08-18)

MR. ARGENIO: Next on tonight's agenda we're moving along with the speed of sound here tonight is Dr. Singh's site plan.

Mr. Charles Brown appeared before the board for this proposal.

MR. ARGENIO: Application proposes construction of a two story 16,000 square foot medical office building on the 10-acre site. This application was previously reviewed at the 12 November, 2009, 26 May, 2010 and 13 October, 2010 planning board meetings. This application is before the board for a public hearing at this meeting. Mark, it seems as though this has been around longer than that, no?

MR. EDSALL: Maybe it seems that way.

MR. ARGENIO: I don't know if that's a tap on you Mr. Brown or what that is.

MR. EDSALL: It's a tough site so storm water has been a challenge.

MR. ARGENIO: So as everybody's aware, we have been very concerned about the downstream flows, that's the easterly flows in protecting those folks to the east so Mr. Brown, tell us what changes you have made of late.

MR. C. BROWN: Well--

MR. ARGENIO: Then we'll open it up to the public hearing and get some commentary if there is any and we'll go from there.

MR. C. BROWN: The changes since our last time before the planning board we labeled the water line size a little bit clearer so we do show an 8-inch water line going all the way to the hydrant on the end of the line there, we changed the zoning table to correct the floor

area ratio, I did forget to mention that last time but we have added a proposed easement here, there's a driveway encroachment off Cullen Avenue on the bottom that serves three dwellings. My client is offering up a driveway easement to cover that existing driveway for those individuals in those houses. I mean other than that, it was minor, just taken off the duplicate.

17

November 17, 2010

MR. ARGENIO: Take a look, it's the interim grading plan, let's go to the final grading plan.

MR. C. BROWN: It should be sheet six.

MR. ARGENIO: I have it as sheet five, yeah, let's stay focused on that and go ahead, Charlie.

MR. C. BROWN: I guess we had the dumpster enclosure down there on two different sheets, that's taken care of and final thing we added notes regarding the fill process, there's so much fill being put on this site to tighten that up.

MR. ARGENIO: Mark, have you reviewed those notes? Are you aware of that? I know that was a point of contention structural fill issue.

MR. EDSALL: Well--

MR. ARGENIO: The geogrid, et cetera ad nauseam.

MR. EDSALL: Comment three refers to our request for a specific note on sheet five, the note that was added to the plan is close but it's not the note we want so--

MR. ARGENIO: Does it achieve what we're trying to achieve?

MR. EDSALL: No.

MR. ARGENIO: Well, it's not right then.

MR. EDSALL: Bottom line is we gave the exact wording of the note we want on the plan, if there's something on there that's objectionable let us know.

MR. ARGENIO: Why didn't you do that?

MR. C. BROWN: Didn't seem to apply to this particular project but--

MR. EDSALL: Look at the note and if there's an issue.

MR. C. BROWN: We'll talk about it.



MR. ARGENIO: Whoa, whoa, whoa, you crafted the note, Mark?

MR. EDSALL: Yes.

18

November 17, 2010

MR. ARGENIO: Put the note on the plan word for word. Are you okay with that?

MR. C. BROWN: Sure.

MR. ARGENIO: That's settled. Next, go ahead, Charlie.

MR. C. BROWN: That was it.

MR. ARGENIO: Okay, you know what I'd like to open this up to the public, I have a couple things I'd like to comment on but I'm going to hold those thoughts for a few moments. You guys take a look at it and let's get a little bit of feedback there because some of the things that I may say they may be covered by the public. On the first day of November, 2010, Nicole compared 23 addressed envelopes containing the notice of public hearing for this application.

MR. C. BROWN: We got two back.

MR. ARGENIO: Okay, meeting canceled. Compared 23 addressed envelopes containing notice of public hearing for this application. If there's anybody here this evening that would like to speak for against or just comment on or ask a question about this application, please raise your hand, be recognized, come forward, speak in a clear, intelligible voice and you'll be heard. Is there anybody that would like to comment? Yes, please come forward, your name please and your address for the benefit of the stenographer?

MR. COLONNA: My name is Paul Colonna, C-O-L-O-N-N-A and I'm an attorney here representing Miss Erica Elhart who lives at 3 Silver Springs Road and which is 58 on the tax map. This is the property right here abuts the property, Miss Elhart opposes this cause this large building is out of character for this specific area and has significant environmental concerns mostly related to water. Miss Elhart lives downstream from this property and is extremely concerned, concerned with all issues related to the water. She's also concerned that this property will remove ten acres of trees and woods and flatten it out which will have further issues related to water and the trees act as a barrier to the water to a certain extent. I have seen some of the storm water management that they have proposed. We ask

that it be closely reviewed by the town and the town engineer and that these, a lot of the properties from

19

November 17, 2010

that area are extremely old, the houses are over a hundred years old, the storm water has a greater damage for those houses than some of the other houses in other parts in your homes. Additionally, for some site specific information, Miss Elhart is concerned with the 360 degrees worth of parking on this property. This parking is all around and the applicant has yet to really provide in documents that I have seen an exhibit of which trees will stay and which trees will go and to let the proper buffer and blocking the lights, doctor's offices especially this time of year it's not uncommon for cars to be there late at night and car lights shining into someone's window is extremely bothersome. And I haven't seen which trees they are leaving versus which trees they are not and I think that would be an appropriate thing to be in a site plan of this magnitude. So in conclusion, I ask that the board reject the applicant's motion in its current form.

MR. ARGENIO: Thank you. Anybody else?

MR. EDSALL: Just for record purposes, could we, Charlie, could you tell us if you have identified their lot on your sheet number one? Is it under a different name? Am I missing?

MR. C. BROWN: Hammond, is that it, 58 you said?

MR. COLONNA: Yes, it's 58.

MR. C. BROWN: It's Hammond, it's actually, I don't know where Silver Springs ends.

MR. EDSALL: So it's tax lot 58. So it is listed as Hammond on the plans.

MR. C. BROWN: Silver Stream goes underneath Collone Avenue there.

MR. ARGENIO: Counselor, is that correct?

MR. COLONNA: She moved there on December 7 of 2009, again, that's not what I am asking.

MR. ARGENIO: I just want to make sure that we're talking about the right lot, it's lot number 58?

MR. COLONNA: That's correct.

MR. ARGENIO: Okay.

November 17, 2010

MR. EDSALL: Thank you.

MR. COLONNA: Thank you.

MR. ARGENIO: Anybody else have any thoughts?

MR. GALLGHER: Motion we close the public hearing.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor close the public hearing. Roll call.

ROLL CALL

MR. FERGUSON AYE

MR. BROWN AYE

MR. GALLAGHER AYE

MR. ARGENIO AYE

MR. ARGENIO: I'm going to make a couple comments, counselor, what's your last name?

MR. COLONNA: Colonna.

MR. ARGENIO: Colonna, I just want to say a couple things, Mr. Colonna, the applicant is not obliged, he's not obligated under the law or under the Town Code in this zone and Dominic correct me if I misspeak please, to identify specific individual trees to stay or to be removed. But what he is obliged to do is to identify clearing limits which I believe they have done in these plans by virtue of the fact that they have a disturbance plan. Second of all, what your client and you yourself are probably not privy to is the fact that this board and Mr. Edsall at the direction of this board we took great, great, great pains, sir, great pains and we pushed the limit as far as we possibly could to ensure that the drainage appurtenances and the like that are proposed for the site would appropriately mitigate anybody downstream we went to great lengths. Mark to that end, can you just elaborate a bit on that without going into a big thing?

MR. EDSALL: I will give a very short general, there's two issues with storm water on this property, one is the storm water that runs through the site coming from 9W that runs west to east down the hill runs next to

November 17, 2010

your client's property and then discharges down across Silver Stream down towards the Hudson River, the town has identified that as one area where we're endeavoring to install drainage improvements to address a current problem. I have heard loud and clear from the planning board and from the Town Board that whatever this applicant proposes to do cannot make an existing problem any worse. They are not obliged to fix an existing problem but they sure as heck can't make it worse. To give you some indication of the time we spent reviewing it and all kidding aside we jokingly said it seems like it's been around a long time, they went through seven revisions of the storm water pollution prevention plan before we accepted it, seven, and I'm sure that there's probably another seven meetings.

MR. ARGENIO: Counselor, we spoke and spoke and spoke about it just because we had the sense that this was going to be an issue for folks like your client. Go ahead.

MR. EDSALL: So we anticipated a concern and secondly we knew we had a problem, we did not want our problem down on the town road to be increased in intensity in to your client. So we looked at that very closely. Does that mean that they are solving an existing problem? Absolutely not. Does that mean the town's aware of and endeavoring to fix it? Yes. So that you should be aware of so it's been looked at very closely.

MR. CORDISCO: The obligation is that this particular project can't make it any worse.

MR. ARGENIO: Correct. One other comment too ma'am as well and counselor is that and counselor, you're aware of this, I stated this for the benefit of the lay people, the reality of it is, the reality of any application is that there's laws in the Town of New Windsor, there's zoning laws that say if an owner of a piece of property wants to develop their property here's what you have to do, here's the rules quote unquote that you have to follow. This is what you need to do, you need to take this step, you need to take that step, you have to stay this far from the property line, you can't develop this much property, you can't expose this much property at a time, you have to stabilize certain areas. So I guess my point is that your client included ma'am, you included, everybody in the Town of Newburgh (sic.) has the right to develop

November 17, 2010

their property, they just have to do it within the bounds of the law and what we try to do here is we try to make sure one of our duties we're charged with is to make sure that people follow the law to make sure that a professional with errors and omissions insurance like Mr. Edsall and Counselor Cordisco review this stuff to make sure that the plan that's in front of us is in compliance with the law. I mean, he has the right to develop his property. I understand your concern about the 10 acres, I understand your concern about the disturbance, I understand your concern about the woods not being there anymore but they have the right to develop the property, as long as they do it within the bounds of the law. The headlight thing it seems to me that roughly based on the elevations I see here they are going to be some.

MR. EDSALL: Sixty.

MR. ARGENIO: Sixty, I was going to say 40 conservatively some 60 feet above you so I don't think you're going to have any impact from the headlights but Mr. Brown, I'm going to caution you, is your client in the audience?

MR. C. BROWN: No, he is not.

MR. ARGENIO: I'm going to caution you and you need to caution your client that one of the big concerns we have and Jennifer hear me on this and I think you guys are going to agree with me, if anybody doesn't agree with me just chime in, during the course of construction before the drainage pipe is in, before the drainage swale goes in, before whatever other appurtenances is associated with the final construction you better make sure you have appropriate swales and appropriate erosion control directing the waters, the flows before your settlement ponds are constructed away from this lady. Because if she gets a call and this is the building inspector, her name is Jennifer Gallagher, if she gets a call, your client's going to have a problem.

MR. C. BROWN: We understand that.

MR. ARGENIO: I promise, I gave you my promise.

MR. C. BROWN: And the notes that we're talking about on the plan, previously some of them were actually to make them specific to this project and myself as being

responsible party, the notes that Mark had they are a bit looser on who the liability falls on but I will be doing SPEDES inspections, there will be a SPEDES permit

in affect on this project, we'll need the MSV from Mark before we do that, we're aware of that and my client knows that.

MR. EDSALL: Mr. Chairman, on one item that Mr. Colonna brought up, we have looked at the storm water seven plus times but in fairness to the comment on the lighting, if acceptable to the board, I'd like to give that one more look because we might be able to ensure that the lights on the east side of the site have back shields because the headlights clearly--

MR. ARGENIO: Excellent idea.

MR. EDSALL: -- are going to be way over but the lights would be a good idea to make sure we have shields.

MR. ARGENIO: You guys okay with that?

MR. C. BROWN: No problem.

MR. ARGENIO: On the east side of the site we'll get some kind of back shield so the light goes west towards the building I think that's a great idea. You'll do that, Mark?

MR. EDSALL: Yes, look at the light pattern, it looks fine but a lot of times that's not enough to eliminate the nuisance of the glare so if we can put a shield on that that might make it better.

MR. ARGENIO: Let's get that done because I think it's good.

MR. C. BROWN: Sixty foot dimensional.

MR. EDSALL: You're going to be looking up into the fixture so back shield is important.

MR. ARGENIO: And the other thing is, ma'am, earlier on we were talking and counselor we were talking about notes on the plans and what those notes refer to are specific notes that Mr. Edsall had crafted that oblige the applicant to take appropriate measures to ensure that that fill is installed correctly so there's no danger, you wouldn't know that obviously you have not been at the last five meetings when this fella was here

but there are notes to ensure that this fill is installed correctly so nobody downstream suffers any hardship. So this said, do you guys see also note to self or note to everybody we have heard from DOT on this, Mark, you have a note here about DOT and DOT takes no exception to what is going on here, that is a

right in, I'm sorry right turn out only, is that right, Charlie?

MR. C. BROWN: Right.

MR. EDSALL: Right in, right out.

MR. ARGENIO: Right in, right out, correct. Does anybody else have anything else on this?

MR. CORDISCO: Mr. Chairman, on Mark's comments he also noted that the State Office of Parks Recreation and Historic Preservation had requested additional information in a letter dated June 10 of this year. Has there been any further interaction with State Parks?

MR. C. BROWN: Yes, actually, we just sent out a, I'll let Jim Raab take over because he's been handling that.

MR. RAAB: I have copies for everybody if you want me to disperse it.

MR. ARGENIO: What did they say?

MR. RAAB: Basically says that the property had prior disturbance and we don't need to deal with Phase I, Phase I historical.

MR. ARGENIO: I cannot imagine a need for a Phase I.

MR. RAAB: Neither do we.

MR. ARGENIO: I don't want it, give it to him.

MR. C. BROWN: Part One, Part Two Environmental was done and we have copies of the old studies when they were done.

MR. RAAB: In '07 when the property was bought just so happens that the information that was in the environmental assessment was very helpful are proving there was a disturbance on the property prior to this besides the dumping on the edges of all the property,

25

November 17, 2010

it was mined in the '30s for sand and gravel.

MR. ARGENIO: I don't see a letter from SHPPO here.

MR. CORDISCO: It's a letter to SHPPO.

MR. RAAB: Letter to SHPPO.

MR. ARGENIO: You're telling them you don't have to do

a Phase I.

MR. RAAB: I put it right in the front letter.

MR. ARGENIO: I understand.

MR. C. BROWN: Yes, we just sent this out to them.

MR. RAAB: Yes.

MR. C. BROWN: You don't have a response from them on this but this is the information we sent to them.

MR. CORDISCO: The board is not required to hear back from SHPPO before you act, the board has its own independent jurisdiction and ability to make a determination as to whether or not there are impacts to--

MR. ARGENIO: I just can't imagine on this site knowing where it is.

MR. CORDISCO: Correct, if there are any state approvals that they require however so if you need any DEC permits in connection with this or any DOT permits you'll need to get a signoff from SHPPO may accept this information.

MR. ARGENIO: What's the procedure?

MR. CORDISCO: The procedure is for the board to consider approval at this point, you don't have whatever, what I am saying is you don't have to wait to hear back from SHPPO.

MR. ARGENIO: Here's my thought for the benefit of the members, I'm in the construction business as you guys know, if we're in a field out in who knows maybe Montgomery for instance there may be--

MR. CORDISCO: Mastodons in Montgomery.

26

November 17, 2010

MR. ARGENIO: Who knows what. But given the proximity of this piece of property to 9W when they built 9W believe me they went through there, it's been disturbed and filled and dug and whatever else I think at least.

MR. C. BROWN: Gotten all the brick yards that were down along the river too.

MR. ARGENIO: And there's sand and gravel that's been, that runs in east west fingers all up and down the east side of the river, you know, the whole bluff in the



City of Newburgh is all sand and gravel just south of there, it's been mined, the Plotkin property for those of you who have been here for some time the Plotkin property, south of there going towards Bowling Time it's all been mined, there's been I think at least there's been substantial disturbances here but that's my opinion, I'm one member. Local determination from Orange County Department of Planning. Charlie, you agree to adopting Mark's comments relative to the fill and installing them on the plan verbatim word for word, you agree to that?

MR. C. BROWN: I do.

MR. EDSALL: Mr. Chairman, comment four one thing Charlie what I'd like to do is add a note relative to the water main that it is a service but that the portion in the public road will be built to town standards and that you'll acknowledge an offer that at some time in the future if the town desired to continue the main that that stretch of the main within the public road would be available for dedication to the town.

MR. C. BROWN: Okay.

MR. ARGENIO: Where are you talking about, Mark, in 9W?

MR. EDSALL: In 9W.

MR. ARGENIO: Point to that for me please.

MR. EDSALL: If acceptable, I will work with Mr. Cordisco and craft a note and then--

MR. CORDISCO: In enforceable condition as part of the approval.

27

November 17, 2010

MR. ARGENIO: Got it.

MR. C. BROWN: Appropriate inspections the town would be notified during construction.

MR. EDSALL: Yes.

MR. ARGENIO: Mark, that slope of that sanitary looks like it's like 18 percent, no?

MR. EDSALL: It will run, it will flow

MR. C. BROWN: That manhole is a steps manhole to cut down on the velocity of that.

MR. ARGENIO: Talk to me, does anybody have anything else?

MR. BROWN: No.

MR. ARGENIO: Have I covered everything procedurally? Seems as though we have heard from everybody.

MR. EDSALL: We still have a pending negative dec, I believe.

MR. ARGENIO: I'll accept a motion for negative dec.

MR. GALLGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare a negative dec on the Dr. Singh site plan. Roll call.

ROLL CALL

MR. FERGUSON AYE

MR. BROWN AYE

MR. GALLAGHER AYE

MR. ARGENIO AYE

MR. ARGENIO: I don't see anything else here, DOT is signing on, we have gone to great lengths with this fill business to make sure it's done. Charlie, whoever does it, if they flood that lady out, you're going to have a problem, I'm telling you now you're going to have a problem, that's not a threat, don't take it as such, it's a statement of fact.

28

November 17, 2010

MR. C. BROWN: No problem.

MR. ARGENIO: It's a point of concern. Mark, what are our subject-tos adding the note.

MR. EDSALL: Two notes and payment of fees, I'm aware of nothing else.

MR. ARGENIO: And the correction on the lights which Mark Edsall will review and you'll do it according to what he thinks is correct.

MR. C. BROWN: Mark, we'll have to recalculate.

MR. EDSALL: I would talk to the manufacturer and let them know we're not talking a, about a normal situation, we're talking about 40, 60 feet difference

and we need a shield substantially in the back just on the east side there.

MR. C. BROWN: Gotcha, okay.

MR. ARGENIO: That applies to all the lights on the east side of the parking lot that are visible from the residences down below.

MR. C. BROWN: Okay.

MR. ARGENIO: You agree to that?

MR. C. BROWN: Yes.

MR. ARGENIO: Okay, if anybody sees fit, I'll accept a motion we offer final approval to Dr. Singh subject to what was just read into the minutes.

MR. FERGUSON: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded we offer final approval, the Town of New Windsor offers final approval to Dr. Singh subject to what I just read into the minutes. Roll call

ROLL CALL

MR. FERGUSON     AYE  
MR. BROWN        AYE

29

November 17, 2010

MR. GALLAGHER    AYE  
MR. ARGENIO       AYE

MR. ARGENIO: Thank you. Please make sure it's done right, I don't want to hear from you, I want you to get it done.

MR. C. BROWN: Yes.

MR. ARGENIO: This lady's a nice lady, I don't want to hear from her, it should be done right and she should not be inconvenienced. Thank you.

November 17, 2010

NEW CINGULAR WIRELESS (AT&T) (10-20)

MR. ARGENIO: Next is New Cingular Wireless, AT&T site plan. Application proposes a new hundred foot monopole cellular tower on the existing motel site. The application was previously reviewed at the 29 September, 2010 planning board meeting. Mark, one time, we have seen this one time?

MR. EDSALL: I believe so, I'll check the dates.

MR. ARGENIO: It's here tonight for a public hearing. Sir, your name?

MR. MORANDO: Anthony Morando from the law firm of Cuddy & Feder.

MR. ARGENIO: Mr. Morando, what have you tonight?

MR. MORANDO: As you know, we're proposing a new hundred foot monopole to provide, to support telecommunication facilities and it's on the property also known as the Windsor Hotel to be located behind the hotel. Before I get into the details just by way

of background, I'd like to discuss what's been done since our last appearance here with the planning board.

MR. ARGENIO: Please do.

MR. MORANDO: As you know, we submitted a detailed visual analysis assessing the visual impacts of the proposal on the site and surrounding areas indicating 17 different locations we took photos providing viewshed maps. At the last meeting, the board as well as the town engineer requested that we would also conduct an additional photosimulation prior to the simulation from the private property located across the street at Coloni Funeral Home. At this point, we submitted to this board fairly comprehensive photosimulations. In addition to the photosimulations from Coloni to assess that private property we also looked at an alternative design from a visual perspective and we provided those in the photosimulations as well. Those designs were basically addressing comments by the town engineer and yourself as a board where we would remove the existing telecommunication tower that's located there now and those antennas would be added to the proposed monopole ultimately resulting in a one tower solution. Beyond that, we also looked at visual impacts of utilizing a

31

November 17, 2010

lattice tower as opposed to a monopole and those again those photosimulations have been provided to you as well. We also were able to confirm through the course of our absence with the board that Metro-North would be willing to remove the tower and add their antennas so as far as a willingness perspective on the side of Metro-North they have--

MR. ARGENIO: That's to consolidate the antennas on the hotel?

MR. MORANDO: Correct, yes, again, they would eliminate the tower that's there now, they'd take their whip antennas and install them on the tower we're proposing. We received a letter confirming what I am telling you now. If you'd like, I can submit that letter.

MR. ARGENIO: I don't want the letter in my hand right now. Go ahead.

MR. MORANDO: We also looked at an alternative design to address the chairman's comment about possible additional co-location opportunities to again consolidate where future telecommunication facilities would be located within the town. We provided photosimulations depicting a hundred foot monopole proposed for AT&T but beyond that, it would be possible

for future expansion for additional carriers.

MR. ARGENIO: Where?

MR. MORANDO: At the same location, the design that we're talking about, the structure to be used is in the same location on the site plan just that the specifications of the pole itself that would be used we provided these alternatives and these photosimulations to address the board's concerns and the town engineer's concerns and give the board a full array of what can be done to basically accommodate what the town was looking for. Beyond that, I can do, I'm prepared to do a full presentation beyond this on the application or defer to the board or public for comments.

MR. ARGENIO: What else are you going to present?

MR. MORANDO: I can discuss.

MR. ARGENIO: Go ahead, present, I have no secrets.

MR. MORANDO: Just by way of background, the reason

32

November 17, 2010

this site is needed is cause there's a significant coverage gap for wireless service for AT&T located on route 9W as well as Route 94 as well as the surrounding area is and the residential areas in the community. That being said, this is a difficult site to accommodate because of the topo vegetation and the way that this area that we're seeking to cover is laid out. So just again by way of background AT&T is mandated by the FCC regulations and FCC license to provide the public with wireless coverage in this area that comes along when they receive their licenses and the rules and regulations promulgated by the FCC. Beyond that, we did an alternative site analysis, we looked at in compliance with the code we did a full survey of possible sites within a 2-mile radius, they have all been and we have demonstrated in the application that they don't work, they don't meet the coverage goals.

MR. ARGENIO: I have a lot of difficulty with that but I'm not going to challenge you.

MR. MORANDO: Okay.

MR. ARGENIO: Just have a lot of difficulty.

MR. MORANDO: Okay, but beyond that just to the details of the site itself as I indicated we're proposing a hundred foot monopole with associated equipment. Fortunately, there's room in the basement of the Windsor Motel so all associated ground equipment to

operate will be located inside the building so there will be nothing else besides the towers located on the outside of the back yard. Beyond that I guess what AT&T will be putting is 12 antennas located at the 98 foot level, below that will be 88 feet to accommodate additional carriers. I guess at this point I would reiterate that this is in an NC district which does allow the new tower sites subject to site plan and special use permit from the planning board. At this point, we also submit that because of the existing tower on the location it's actually a preferred site under your code and that once it's determined that you can't co-locate anywhere to solve the coverage gap that we have then the next desirable site under the code is to have to use a site that already has telecommunications tower which this site does. So at this point again I would, I'd defer to the board or the public for any possible comments that they might have.

MR. ARGENIO: Guys, take a look at it, we'll hit it

33

November 17, 2010

after the public hearing. On the second day of November, 36 addressed envelopes were compared by Nicole with a list supplied to her from Todd Wiley, the assessor containing notice of public hearing. That's why we're here tonight for this application. Anybody like to speak for or against or just comment, please raise your hand, come forward, speak in clear, intelligible voice and give your name.

MR. MORIELLO: Good evening, Dan Moriello.

MR. ARGENIO: I didn't pick you. I'm kidding, Dan.

MR. MORIELLO: 58 Lafayette Drive. My front door opens up to right where they are looking to replace and put this pole.

MR. ARGENIO: What does that mean?

MR. MORIELLO: I open up my front door.

MR. ARGENIO: You live in the motel?

MR. MORANDO: I live behind on Lafayette Drive, they are looking to put this pole right in front of my house. My concerns and information that I found have to do with having four children and the issues that come from the cell tower. There's tougher cell tower regulations, Hempstead, New York has come up with their town regulations of not having a cell phone tower 1,500 feet from any house, school or any other type of area that's inhabitable. Not to mention on how this pole will impact the value of my property, and the

aesthetic look from the pole that, you know, the existing pole that's there to a cell tower pole. Those are my major concerns. Health concerns that have been researched I have that information here. One other question that I had that I did not understand what's the town's setback restrictions for this pole and do we have any regulations?

MR. ARGENIO: Is that your last question?

MR. MORIELLO: Yes, well the two questions is the setback and do we have as a Town of New Windsor a restriction from a cell tower to a house or something like that.

MR. ARGENIO: Okay, anything else?

34

November 17, 2010

MR. MORIELLO: No, that's it.

MR. ARGENIO: Okay, thank you very much. Anybody else? Step up, sir.

MR. LOTHOREZ (PHONETIC): Good evening, thanks for letting us come here and speak to this. My name is Demetrius Lothorez, 43 Lafayette Drive. Has it been concluded that these towers are safe and that the RF and the radiation that comes from the towers are safe for children? Is there conclusive evidence available?

MR. MORANDO: Well, should I?

MR. ARGENIO: This is not going to be a debate, I want to hear the concerns and there's a lot of people up here, smart people, people smarter than me that are going to address your concerns along with the board. Go ahead

MR. LOTHOREZ: My concerns are we have around a dozen young children living in this neighborhood, this neighborhood I didn't hear any comments, I heard about the funeral home across the street. I'm concerned about their safety, I'm concerned about their health, they are also the property, the value things which that tower's been there for a long time, the one that exists there now behind the motel this one would be I imagine 40, 50 feet higher.

MR. ARGENIO: Can I interrupt you for just one second? Stay right there but it's pertinent to where he's going, your new tower is going to be how much higher than the existing tower? I'm looking for a number.

MR. MORANDO: The existing tower is 60 feet plus 20 for



the whip antenna so total height of 80 feet.

MR. ARGENIO: What's your tower going to be?

MR. MORANDO: A hundred.

MR. ARGENIO: I didn't know the answer.

MR. LOTHOREZ: I'm assuming a little bit broader base because you're going to have the facility around to protect it.

MR. MORANDO: The dimensions, it will be larger at the base but it's a different design, what's there now is a

35

November 17, 2010

lattice, well, it depends, we're still talking but as far as the base, yes, it will be thicker than what's there now.

MR. LOTHOREZ: Also has to be a 25 foot fenced in area that no one other than authorized personnel are allowed to enter.

MR. MORANDO: I don't believe it's 25 feet.

MR. ARGENIO: I think what he said earlier was that service area that you're referring to is going to be in the basement of the motel.

MR. LOTHOREZ: Yes, that I know but--

MR. MORANDO: There will be fencing around protecting it, yes.

MR. LOTHOREZ: But the reason that the fencing is there is because of the radiation risk from the tower

MR. ARGENIO: You're making a conclusion, I don't know if it's right or wrong

MR. LOTHOREZ: I'm figuring if you're going to have a fence that's one of the reasons that the fence is there because it's dangerous to be nearby, the children in the neighborhood play there, there's a lot of kids there and I wouldn't, I'm not comfortable with having a facility in the neighborhood in the community that's been, people have been there all their lives. Families have been there for 40 50 years, we have a lot of young, really young kids there that play there all the time, they ride their bikes, that's where the bus stop is and unless I'm just personally against that kind of safety risk if it's not really conclusive that it is safe.

MR. ARGENIO: Okay.

MR. LOTHOREZ: And Dan addressed the other issues property value but to me it's more of a safety issue for the children.

MR. ARGENIO: Thank you. Is there anybody else? Yes, madam, your name please?

MRS. MORIELLO: Jessica Moriello, 53 Lafayette Drive. The same one that opens up, it's right across from the

36

November 17, 2010

house. Couple of my questions, if AT&T was going to share this pole with other companies, it's my understanding that each antenna puts off their own amount of radiation. So if you have the first one gives off 500 whatever of radiation and if you have three now you're up to 1500. So he's saying it's possible there's going to be more than one, I don't know how if there's a way to gauge how much radiation is going to come off the pole.

MR. ARGENIO: He will speak to that in a few moments.

MS. MORIELLO: And if he can tell me how many watts are going to come off each antenna because I think there's a guideline, you can't go over so many by the FCC. My other question was and I'm not sure if my husband asked this is if there's--

MR. ARGENIO: You guys are married? Only one visit per family. If we enforce that, Leo and his wife would be out of here. I'm kidding, ma'am obviously.

MRS. MORIELLO: Is there a town guideline for how far this has to be from a residence?

MR. ARGENIO: We'll get to that.

MRS. MORIELLO: Anything that I saw cited 300 feet and there's only 50 feet from my house if that. I think that's, and the health concerns, I mean, I've seen a ton of studies, nobody can tell me whether it does or doesn't affect a lot of them, say it does affect children and I have four and they ride their bikes about five feet from this antenna. So those are my main concerns.

MR. ARGENIO: Thank you, Miss Moriello. Anybody else? Leo?

MR. BRAUN: One quick question.

MR. ARGENIO: Yes, sir.

MR. BRAUN: Of the four issues that we have public hearings why do we not have the public seeing the plans?

MR. ARGENIO: Turn the plans around.

MR. BRAUN: Thanks.

37

November 17, 2010

MR. ARGENIO: The reason is Leo cause I invite everybody to please come up and speak clearly and intelligibly and the plans are right to their right where they can see them much, much closer.

MR. BRAUN: I can see perfectly right now.

MR. ARGENIO: You have better eyes than me, my man. Anybody else?

MR. GALLAGHER: Motion we close.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we close the public hearing on a AT&T and the cell tower.

ROLL CALL

MR. FERGUSON    AYE  
MR. BROWN       AYE  
MR. GALLAGHER   AYE  
MR. ARGENIO     AYE

MR. ARGENIO: Folks, I want to say a few things and some of it's going to be like a broken record for some of the members of the board but the law is the law and I have cited it several times and I'm going to ask for commentary from the professionals as well. First off, Mark, please speak to the issue about setbacks, offset distances to houses, things of that nature.

MR. EDSALL: Mr. Cordisco was kind enough to open up the code, electronics are wonderful, and the code is based on a setback of one half the height of the tower so with 100 foot tower you need a 50 foot setback. Their plan shows 53 feet, there's to my knowledge and we have been looking to see if there's any reference whatsoever and we didn't believe there was, we haven't found it, any reference of setback from any other item such as a residence and thank you Dom for having this available.

MR. ARGENIO: So the answer is again like I spoke about

like we spoke about on the other application there's laws and rules and regulations whereas Miss Moriello if you wanted to put a cell tower up on your property you could do that but you'd have to follow the rules and the regulations relative to the setback, the offset,

38

November 17, 2010

whatever you'd like to call it. Is that for every 10 foot you go up you have to be five foot away from the property line. Now just a note about, sir, I'm sorry, I didn't write your name down with the green shirt on,

MR. LOTHOREZ: That's me, Demetrius.

MR. ARGENIO: For the benefit of Miss Moriello and you, I just want to speak about this and then I want to hear from the professionals. The laws governing cell phone, cell tower transmissions are promulgated by the Federal Communications Commission so how many watts they can put out, how powerful, you use the term radiation, I don't know if that's the proper term, I don't know, honestly I don't know, that's governed by the FCC. This board and this town as a whole has no say in that none, zero, zero and there was a point at another public hearing on a cell tower where I actually handed out or I didn't hand them out but I had put over there the phone number for the FCC in Washington D.C. where if anybody wanted to call please call because lawfully we can't say your dial can be turned up higher or your dial should be turned up lower, that's not what we do. The FCC does that. What we do, however, is we create zones and we say it can go in this zone and not that zone, we say it can be this tall and not that tall, we do do that, just like the town of Hempsted did. You may or may not be quoting law and your name was sir?

MR. MORIELLO: Dan.

MR. ARGENIO: Can I call you Dan?

MR. MORIELLO: That's fine

MR. ARGENIO: You quoted a law in Hampstead saying it can't be 1500 feet from this, you may be right you may be wrong, it's irrelevant here tonight but that town made laws and those are the laws and just like everybody else in this room, the reporter, Mr. Bedetti, everybody else in the audience, you can do what you want with your property as long as you follow the law. That's the reality of it. Dominic, I'd like you to speak briefly, briefly because I think a lot of the people here were not at our last public hearing for cell towers, briefly about the FCC requirements and then, sir, I want to hear from you about the allowable output and about what your output is. Dominic, please

go ahead.

39

November 17, 2010

MR. CORDISCO: Yeah, it's actually in addition to the FCC it's one step above that in a sense that it is the United States Congress signed into law and the President signed into law the Telecommunications Act which restricts the ability of municipalities to regulate technical aspects of cell towers of telecommunications towers. So as long as there's a showing by an applicant who wants to put up a cell tower that they are within their frequency limits as set by the FCC and it's regulated by the FCC that's it and we're not in a position to regulate technical aspects relating to the antennas and what they emit and we're, actually, there's been a lot of case law on this particular point that the health related issues or concerns about health related issues can't be regulated at the local level, it's a Federal government issue. Now, the Hempsted law was the subject of an article which has been shared with the town in Newsday and this was an article that was providing an analysis of cell towers on Long Island and where you have obviously if you're familiar with Long Island, you'll know that it is very densely populated, there are concerns about the interaction on a local level just as they are concerns up here. In that article, there were several quotes from the Federal Communications Commission spokesman indicating that the research to date indicates that cell towers pose no danger to people when operated according to Federal safety standards. There's several quotes along those lines. But the important point about the article was is that the Town of Hempsted had enacted restrictions regarding not only location but types of cell towers within the town. Since that time, that article came out September 24 and in court decision from the Federal courts, Federal District Court in New York in regards to a town of Clarkstown law which was similar to the Hempsted law that came down on October 6.

MR. ARGENIO: We're waiting, I'm waiting with bated breath.

MR. CORDISCO: This is what the court held and this is, this applies and invalidates a lot of the provisions in Hempsted and others on Long Island where the court held that the Federal Telecommunications Act and this is a quote leaves the regulations of all technical aspects of telecommunications to the exclusive jurisdiction of the Federal Communications Commission period. So it's quite clear obviously these are concerns that are raised by people.

November 17, 2010

MR. ARGENIO: Very real concerns.

MR. CORDISCO: But it's also been quite clear that these are issues that are regulated solely by the Federal government that said if I may I just want to segway the board, we do obviously have a special permit at issue here and the board's jurisdiction over this project is set forth by Town Law, our Town Law which provides a focus on special permit on the potential adverse impacts, adverse visual impacts is the focus of the special permit so the board is considering this application the focus of the whether or not to grant or deny a special permit, your focus should be on what the visual impacts will be as a result of the new.

MR. ARGENIO: That's what we're limited to that sort of thing. Counselor, briefly without a lot of other stuff inserted into it, on the record while the stenographer's typing the output of your tower is what and what level are you allowed to put out of whatever, watts, gigawatts, kilowatts, whatever.

MR. MORANDO: Well, as you said the FCC sets the regulations.

MR. ARGENIO: Maybe the FCC.

MR. MORANDO: The FCC sets the regulations based on various studies done by the EPA, I believe it's upwards of 10,000 studies done over the course of time but the limit as far as quantity figure it we're less than 2 percent of the maximum 100 percent limit, so being that I believe we're at one cumulative assessment of this antenna and the whip antennas on a neighboring tower combined is less than 1.7 percent.

MR. ARGENIO: So the cumulative output of the, all the antennas you're proposing on this tower is less than 2 percent of what's allowed by law?

MR. MORANDO: Yes.

MR. ARGENIO: Is that two watts?

MR. MORANDO: As far as its quantity.

MR. ARGENIO: What's the unit?

MR. MORANDO: I'd have to look to be honest.

November 17, 2010

MR. ARGENIO: You ought to know that.

MR. EDSALL: While he's looking that just one note since we have a lot of interested parties in the audience for the public hearing, the town local code for telecommunications towers makes an effort to focus as it may be these towers in non-residential areas because the regulations only permit towers in the AP, PIC and NC zone, all of which are non-residential zones. In this particular case, again it's preexisting.

MR. EDSALL: Well, the situation is there's a state highway, there's an NC non-residential zone, neighborhood commercial zone, it's in the commercial zone they are proposing it but whenever you have commercial next to residential you've got that interaction, some towns made the effort to focus these toward the commercial zones, this case it just happens to be the location is adjacent to the zone line.

MR. ARGENIO: We have had this a hundred times somebody always lives near the zone line, Anthony's Deli is a perfect example, the steel place on Silver Stream Road another great example PI or airport on one side residential on the other well that's --

MR. EDSALL: Again, it's something this board deals with all the time but I wanted the public to be aware that the town didn't say put them anywhere you want.

MR. ARGENIO: If you guys have a comment, please chime in, I feel like I'm the only one talking. The last thing I want to offer is, counselor, would you come up here please?

MR. MORANDO: Yes.

MR. ARGENIO: I want to give you a thought and I think it's very crummy and the public should know that typically, not all the time, typically this board is not, we're not advocates of cell towers, everybody has cell phones, I mean, there's nobody in this room that doesn't own a cell phone. The towers that look like Christmas trees, they're towers, the towers that are lattice towers, they're towers, the towers that are towers are towers, the towers that look like flag poles they're still towers. But I think and this is only my opinion that I find it hard to believe that you can't

November 17, 2010

find another spot somewhere else that's not right in that viewshed for the Coloni Funeral Home. That's, let me finish, that's a gorgeous home, it's a Town of New Windsor landmark and you're putting a tower right between it and the view of the river and I think that's poor, in poor taste by AT&T or New Cingular or whoever would come in front of this board and propose that type of thing. But that's what it is. So I hope, I think I have addressed the comments or somebody up here, counselor, counselor, Mark, myself has addressed the concerns here. In addition to that just to and again, I'm going to try to be brief, give everybody in the public a feel for where the Federal government comes down on this whole thing, recently there's been a Sunset Law enacted and what that means in my own simple terms cause I'm not an attorney is that a lot of municipalities are getting these applications for cell towers or modifications thereof and they were sitting on them, not going to put you on the agenda, we're not going to put you on the agenda, well, it's a problem because it's getting to the point cell phones are a very vital part of our lives, for emergency services, for a litany of things. So what's been enacted is what they call a Sunset Law and it states amongst many other things that when a cell tower application comes before the board that the planning board is obliged to act within a certain amount of time and it's not very long, it's like 30 or 60 days, is it not?

MR. CORDISCO: For new towers I believe it's 180 days.

MR. ARGENIO: And so and if you don't act, they get automatic approval because people we're just not going to do anything and it is what it is. So all that said, did you have something else you wanted to add?

MR. MORANDO: It's actually 150 days.

MR. ARGENIO: Thank you for correcting me, counselor, you certainly curried a lot of favor with him right now, Dominic.

MR. CORDISCO: That's quite all right.

MR. ARGENIO: Sir, public comment period is closed but and that's not me being prejudiced against you, that's the law. If you have something you'd like to ask, send her a letter or a note.

MR. MORIELLO: The question I asked before that wasn't

November 17, 2010

answered.

MR. ARGENIO: What was it?



MR. MORIELLO: About the distance, how Hempstead had 150, does our town protect us?

MR. ARGENIO: No, I answered that and the answer is I will answer it again is that their offset distance requirement is what it is and ours is what it is. I don't know what ours is but you certainly are, I would invite you, I would invite you to come to Town Hall and, see Jennifer and she'll give you the code book, you can take a look at it. Do you guys know?

MR. EDSALL: We mentioned that earlier, it's, for a hundred foot tower they need half the height so it's 50 foot.

MR. ARGENIO: And there's no requirement in the law that says that it needs to be X feet away from a home or residence?

MR. CORDISCO: No, but it has to be located in the commercial zone.

MR. EDSALL: So they're 53 feet from the property line and they're required to be 50 so they're over the minimum requirement.

MRS. MORIELLO: Fifty feet from the pole or the fencing?

MR. EDSALL: From the tower to the property line.

MR. ARGENIO: We have no approvals from the Department of Orange County DOT, Parks I have nothing so we need to do something.

MR. MORANDO: The county referral was sent out I believe on November 9, so the 30 days, November, November, I have it as the eighth.

MR. EDSALL: It went out the eighth and the lead agency letter went out on the eighth as well.

MR. CORDISCO: You didn't give me an opportunity to correct you but in any event, the county has not had 30 days yet to respond and the county hasn't responded yet, the board cannot take any further action on this.

MR. ARGENIO: I would like you to Jennifer please get those visual packets out to the members so we can look at them. I know I have not seen it yet and I want it to go to the alternates as well so we can look at this close and as I said earlier and I'm going to reiterate

I think it's in pretty damn poor taste that you would put this thing right in that viewshed of that acknowledged historical home. But you have the lawful right to do it and it is what it is and we'll move forward.

MR. MORANDO: If I can just respond. We did look at the visual impacts, we looked at a cumulative aspect meaning the whole Route 9W from a distance all across the town while it may have an immediate impact on the private property across the street and a minor impact on some other areas cumulative for that area to solve the gap in this area, its minimal visual impact.

MR. ARGENIO: You just got done telling me you don't have a signal within two miles, you said you looked two miles left, two miles around this spot you have to go to here, didn't you say that?

MR. MORANDO: Yeah, to cover our coverage, yeah.

MR. ARGENIO: So that's where you're going.

MR. MORANDO: But I'm saying--

MR. ARGENIO: If you were 400 yards north or 400 yards south, it would make a big difference.

MR. MORANDO: We can't put it on top of that, we looked at the visual impact, I don't want the board to think we don't take into consideration the visual impacts which is why we provided a pretty substantial visual assessment.

MR. FERGUSON: Visual impact will come when you have four carriers existing.

MR. ARGENIO: Are they included those rows of antennas?

MR. MORANDO: Ours are and where we were able to put the whip antennas for Metro-North those are included.

MR. ARGENIO: But the other three rows are not included?

45

November 17, 2010

MR. MORANDO: No, they are not.

MR. ARGENIO: What else can we do for you tonight?

MR. MORANDO: If we can coordinate the next meeting that's on.

MR. ARGENIO: No, we can't do that. What you need to

do is you need to contact Nicole and I believe we're full for December, are we not?

MR. EDSALL: December is pretty full.

MR. ARGENIO: The deadline's tomorrow.

MR. EDSALL: And December agenda is packed already.

MR. ARGENIO: Call Nicole Monday.

MR. MORANDO: One meeting in December?

MR. ARGENIO: One meeting in December. Call Nicole and if you can get, we can get response from some of these agencies we'll put you on the agenda. I'm not going to hold you up, I mean, the inevitable is the inevitable and get this thing distributed to the members.

MR. MORANDO: If I can ask as far as determining a design that the board favors at this point whether it be monopole, lattice monopole, possible expansion for future co-location for us to move forward with very specific design specifications, Metro-North it would be helpful to know the design itself.

MR. ARGENIO: I haven't seen it. Wow, you're kidding me man, oh man, do I see the lattice one? This is the first I've seen this.

MR. MORANDO: Oh--

MR. ARGENIO: We need to look at it and consider it.

MR. MORANDO: Okay.

MR. ARGENIO: This is the one I, look right here, can you do this one right here, this one?

MR. MORANDO: No, I'm sorry, that's not possible.

46

November 17, 2010

MR. ARGENIO: Do you see what that is, Leo?

MR. MORANDO: In my cover letter I specify exactly which picture is which.

MR. ARGENIO: Enough, enough. Anything else?

MR. MORANDO: That's it.

MR. ARGENIO: Get ahold of Nicole, we'll schedule you when you're ready, if we hear from county and whoever else, it is what it is. Thank you for coming in, sir.

MR. MORANDO: Thank you.

MR. ARGENIO: Hopefully you didn't get beat up too much.

47

November 17, 2010

WALGREENS (08-20)

MR. ARGENIO: Next is Mr. Joe Sarchino. Construction of a 14,456 square foot retail building. The plan was previously reviewed at the 10 December, 2008, 28 July, 2010 and 15 September, 2010 planning board meetings. They are here for a public hearing tonight.

Mr. Joseph Sarchino appeared before the board for this proposal.

MR. ARGENIO: Tell us what changes you've made and let's get it on to the public.

MR. SARCHINO: Yes, we made a submission on October 7

and again the site is along Route 32 here, main entrance will be either side of the building which is located generally over where Primavera's Hardware is.

MR. ARGENIO: Turn that towards us then when you turn it towards the public you can turn it towards Leo so he can see it.

MR. SARCHINO: Again, so the property is located adjacent to Route 32, it's part of a four acre parcel that we're going to merge the lots. The building is located over where the old Primavera building was so everybody can get their bearings as far as that goes. We have, again, it's ended up to be a four acre parcel with parking around Walgreens in this location is about 75 parking spaces. Part of the application was and that's something I want to talk to the board about is to have a full function driveway in this location adjacent to Wendy's and also a full function driveway--

MR. ARGENIO: How about a right out only?

MR. SARCHINO: So that's one thing that's not on the plan that's not revised but we do have a letter from the State DOT which I'm sure you got a copy which says right out only so you were right.

MR. ARGENIO: You're not surprised?

MR. SARCHINO: Well, they did ask that this only be a right out only driveway, I'm going to ask if we can also get a right in which I think they'll be okay with just in case.

MR. ARGENIO: We'll have Mark look at that but I don't

48

November 17, 2010

think that's a problem. Howard or Harry, how do you feel about that or Danny next to Domino's?

MR. EDSALL: So you want to make it both right in right out versus just right out?

MR. SARCHINO: Yes, and the reason being--

MR. ARGENIO: Hold it, Joe, are you okay with that? Harry, does that make sense.

MR. FERGUSON: Yes.

MR. EDSALL: That would seem to be more restrictive and safer.

MR. ARGENIO: We're right there right in right out, it was right in right out when Covallo's was there. Go

ahead.

MR. SARCHINO: That would just allow somebody driving by oh darn it, I'm by the entrance, I want to go there, they don't have to go through the light and come back around so it will be a quick in at that location. We have made some changes since the last planning board meeting responding to Mark Edsall's comments, they were mostly drainage revisions which we've made changes, made the re-submission. Mark's latest comment memorandum really just it's things that I can certainly take care of. A lot of it is signage and he does talk about signage as far as pylon signs and we have already applied to the building department for the signs which we now need to go to the ZBA which we realized and we're going to try to get on that agenda as quick as possible.

MR. GALLGHER: Too many signs. What's the reason for ZBA, size of the signs?

MR. SARCHINO: Size of the signs.

MS. GALLGHER: And the amount?

MR. SARCHINO: Right now we're proposing a pylon sign in this location, a monument sign in this location and then building elevation again which is a brick facade building which we think certainly is a big improvement over what was there, has two signs on each side so that's why we have to go to ZBA. They used to have also a photo sign but we got them to take that out so

49

November 17, 2010

it's a Walgreens and a pharmacy and Walgreens and a pharmacy plus the pylon.

MR. ARGENIO: How many signs total Howard wants to know?

MR. SARCHINO: We have 1,2,3,4.

MR. ARGENIO: Remote signs?

MR. SARCHINO: Two.

MR. BROWN: Why do they have to go for a variance?

MR. ARGENIO: The size of the sign is too big.

MR. SARCHINO: So we have a small monument sign here's Blockbusters, the driveway and then we have the pylon sign here so just two signs. Just so I tell everybody in the audience there was one thing we worked on during the course of this project with the planning board and

that was to make sure that the dumpster locations were well screened and we took the building facade.

MR. ARGENIO: And they work?

MR. SARCHINO: Yes, and they work.

MR. ARGENIO: Let's, you guys can take a look at this for a minute and let's see if we can get some commentary on this if anybody cares to. On the first day of November, 2010, Nicole compared 34 addressed envelopes containing notice of public hearing. Those addresses came from Todd Wiley, the assessor. They were mailed out containing the notice. If anybody would like to comment for or against or just have a question on this, please raise your hand, be recognized. Yes, madam, your name please?

MS. RICHICHI: Hi, my name is Cynthia Richichi and my mom is the owner of the building right next door on the south side, yes, right there. And my question is right now there's shared parking lot between the two properties and I just I need to kind of get a feel what it is going to be like. I know there's an entrance you designed an entrance, how does that, how is that going to affect the property?

MR. SARCHINO: Right now, it's kind of like a driveway and a driveway next to each other. So what we did is

50

November 17, 2010

we left this driveway that runs alongside of the building here and we offset the driveway that's on the property for the project moved it away a little bit.

MR. ARGENIO: So Joe, did you separate your parking from the driveway for the Richichi property or the Richichi house?

MR. SARCHINO: I think the parking was--

MR. ARGENIO: We're all talking, yes, ma'am?

MS. RICHICHI: It's Rosemarino is the owner of the property.

MR. ARGENIO: So her mother, did you separate, is it separated by a curb the entrance to that parcel next door?

MR. SARCHINO: Yes, it is.

MR. ARGENIO: Okay.

MS. RICHICHI: Now, I was wondering how much space is

there between the curb, the corner right here and here, what's the space there?

MR. ARGENIO: Ma'am, you better be careful, the DOT might be imposing right in right out for you by the time we're done.

MR. SARCHINO: Up front is about 11 feet going by the building it's about 10 feet through here.

MS. RICHICHI: Is that all open right there?

MR. SARCHINO: Yes, we didn't touch that, we didn't touch this at all, basically, we just took the mixed driveways and separated it so it moved it down a little bit and this still will remain.

MS. RICHICHI: That's enough space for--

MR. SARCHINO: You can get a car through there.

MR. EDSALL: Mr. Chairman, I'd like to just ask Joe a question so that would follow up on this so we understand the configuration on the west side of this row of 16 parking spaces along Rosemarino property is there a curb on that back side as well?

51

November 17, 2010

MR. SARCHINO: Yes, there's a curb, we have a curb along the parking lot here and a curb is shown but I thought it was existing.

MR. EDSALL: Well, my concern is that we end up with a curb on both sides and create that as an island in front of your new parking spaces so that your light poles are within a curbed area not just sitting out in the pavement adjacent?

MR. ARGENIO: You follow him, Joe, what he's saying? Look, watch me, you've got a curb here for the cars that pull in, does that curb wrap around then return all the way back so the light pole bases are within an island?

MR. SARCHINO: We're showing that, yes, on our property code.

MR. EDSALL: Could you just make sure that that's real clear?

MR. SARCHINO: Yes, I will. So, I mean, right now, I do see the curb that runs along here and it returns back to here.



MS. RICHICHI: Curb like a sidewalk?

MR. ARGENIO: No, curb.

MR. EDSALL: Concrete curb.

MR. SARCHINO: I will make sure that's very clear.

MS. RICHICHI: My other question is that the entrance and exit the way it exists right now from 32 onto my property how is that going to be if it's only an exit to the right from--

MR. ARGENIO: Ma'am, you have to ask a question, I don't understand what you're asking.

MS. RICHICHI: Right here cars are just going to be going in or both?

MR. ARGENIO: In or out.

MS. RICHICHI: So that's going to change from what it is right now?

52

November 17, 2010

MR. ARGENIO: Nope, right now I don't know what it is right now but right now this area cars can come in or out.

MS. RICHICHI: Right now, yes.

MR. ARGENIO: Post construction they can come in or out.

MS. RICHICHI: Well, they won't be able to, there's not enough space so that's okay, that's it.

MR. ARGENIO: Well, the reality of it is there is a property line there and the property line is the property line, I mean.

MS. RICHICHI: And we have enjoyed that space and I guess that's--

MR. ARGENIO: Park in their lot. Can we do something about that, I mean?

MR. CORDISCO: It's a--

MR. SARCHINO: I think there's parking in the rear and you can get to that.

MS. RICHICHI: There is, that's basically it.

MR. CORDISCO: It sounds as if from my understanding of what's happening is that even though there's a property line, the existing driveway's wider so you drive and your customers drive across both properties to reach your building?

MS. RICHICHI: Yes.

MR. ARGENIO: Which Covallo's case there was no curb, I mean you could come in or out.

MS. RICHICHI: That's exactly how it is right now, actually the building is down from Covallo's so it's even more open.

MR. ARGENIO: My point is that the property line's a property line and it's his property. Mark, is there a code that says that the curb has to be a certain amount of feet away from the property line?

53

November 17, 2010

MR. EDSALL: No but I'm going to defer to let Dom finish his.

MR. CORDISCO: We're dealing with a situation which you don't have an easement across their property to continue to use that as a driveway as a shared access, it's just something that you were using over time and so they are within their rights to come in and propose to redevelop it. If that negatively impacts your property, it's unfortunate but we're not in a position and the board can't compel them to redesign their project to accommodate someone else's property. If you had an easement, it would be different if there was an easement that showed that there was a shared driveway across the two then they'd have to oblige that.

MR. ARGENIO: Are you aware of any cross easement that exists in a legal form?

MS. RICHICHI: No.

MR. ARGENIO: If you come around the building like this and go in the back you have parking back here, right?

MS. RICHICHI: Yes, there's parking in the back.

MR. EDSALL: And your rear parking is accessed off 300, yes?

MS. RICHICHI: Yes, it is.

MR. EDSALL: One note--

MR. ARGENIO: You're not totally hosed.

MS. RICHICHI: No, just going to be very different and it's just going to be just one way in.

MR. EDSALL: In answer to your question and a suggestion to Mrs. Richichi, number one, there's to my knowledge nothing in the code that requires a setback for a curb. There are building setbacks, structure setbacks but nothing that requires a curb setback. Clearly with that island being created along there each side of the property line if you're down 10 to 12 foot width that's not enough width for two way traffic. So what you should probably assess is what layout best suits your operation if you want to have that be an entrance or an exit right turn only where people can come out onto 32 and access off 300 you should really

54

November 17, 2010

consider that for your own protection safety wise.

MS. RICHICHI: There's tenants, Domino's is one of the tenants and actually right now used to be, now there's a by gold, buy and sell gold place and soon, yeah, just little tiny areas.

MR. ARGENIO: Anything else?

MS. RICHICHI: No, thank you.

MR. ARGENIO: Anybody else have a comment?

MR. GALLGHER: Close the public hearing.

MR. FERGUSON: Second it.

MR. ARGENIO: Motion made and seconded we close the public hearing.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Joe, I want you to consider something see this here, see that right there?

MR. SARCHINO: Yes.

MR. ARGENIO: Clean that mess up, put some brick pavers, benches and a flag pole.

MR. SARCHINO: We have a flag pole.

MR. ARGENIO: I didn't say you didn't, put some brick pavers, some benches and a flag pole.

MR. SARCHINO: Okay.

MR. ARGENIO: And it can be a nice thing and some landscaping, I don't want a big slab of bricks, I think that would be nice. What do you guys think? That's right on 32 there and I think it will green that area up nice, there's sidewalks there, Scheible's not here, he's a sidewalk psycho.

MR. SARCHINO: We did put, you know, there's

55

November 17, 2010

landscaping in here, I mean, I'm just not sure who we want to promote hanging out there.

MR. ARGENIO: Who do you anticipate would hang out?

MR. EDSALL: The seniors walking break.

MR. ARGENIO: Do you know what I'm thinking to be very frank, I'm thinking possibly your employees' break time we have a senior complex down the road, they might want to sit there when they come get their medications, that's what I'm thinking and I'm not asking for 12 \$6,000 benches, I'm suggesting not, I'm suggesting a couple of three benches in a brick paved area with some landscaping, that's all.

MR. GALLGHER: Walgreens built one over in Wappingers Falls and they have something similar to that what we're asking for right there.

MR. ARGENIO: So they would be right on it.

MR. GALLGHER: I believe so.

MR. ARGENIO: Guys, talk to me. Howard?

MR. BROWN I want to look at it.

MR. ARGENIO: Continue to look at it, it's not an issue. Let me just go through a couple things. Are you aware of the SWPPP issue?

MR. SARCHINO: I am aware that we resolved that I thought.

MR. ARGENIO: That device not on the approved list for whoever regulates it?

MR. SARCHINO: It is.

MR. ARGENIO: Mark, you're wrong.

MR. EDSALL: Well, I believe Mr. Szarowski has confirmed if we were in the State of New Jersey it would be acceptable but being that we're in the State of New York and it's not on the New York list we have to get annexed to New Jersey or have you verify it's acceptable in New York.

MR. ARGENIO: Joe, check it out just cause you have

56

November 17, 2010

used it, maybe it flew under the radar a little bit. John Z from Mark's office is a pretty thorough guy, check it out.

MR. EDSALL: It's the only thing left on storm water.

MR. SARCHINO: We'll check and make sure.

MR. EDSALL: If it's been recently accepted in New York send them the literature, send them the acceptance and that will go away. Mr. Chairman, the rest of my comments I spoke with Joe on are very minor, very minor corrections.

MR. ARGENIO: Mr. Sarchino drafts a fine plan. We all know that firsthand.

MR. SARCHINO: Thank you very much.

MR. ARGENIO: But they're all nickel dime stuff. Does anybody have any questions, you guys about the comments? I mean, it's all like drafting stuff and Mark uses the word duplicative, I'm not smart enough to know what that means, hopefully Joe does.

MR. EDSALL: On the Route 32 curb cut issue, it may be helpful to the applicant and at least let the DOT know the board's feelings to communicate with them and tell them that we in fact support the right in right out proposal. We don't see any problem with it.

MR. ARGENIO: Why would that be helpful?

MR. EDSALL: It would be helpful because sometimes DOT doesn't quite reach quick decisions, sometimes a little help from the town saying we have looked at this in detail, we think that's a --

MR. ARGENIO: That was our position from day one, this board was in favor of that from day one.

MR. EDSALL: We told them that we were concerned about

the egress movement being for the left turns that we wanted right, I believe their letter is ambiguous, I don't believe they're looking to restrict necessarily you're incoming movements but it could be read two ways. But if we write a letter indicating the board looked at it in detail and believes that the right in right out proposal of the applicant is appropriate.

57

November 17, 2010

MR. SARCHINO: That would be much appreciated.

MR. ARGENIO: Guys?

MR. BROWN: Yes.

MR. GALLGHER: Yes.

MR. EDSALL: I will send it to the DOT.

MR. ARGENIO: What else, Joe, what else do you want from us tonight?

MR. SARCHINO: I would love a final approval if at all possible.

MR. ARGENIO: You're not going to get it, not tonight, you've got some things you have to take care of. Take care of the landscaping thing, we have to take care of the SWPPP business. Mark, what else am I missing here?

MR. BROWN: Needs a variance for the signs.

MR. ARGENIO: There's another good point, Howard, what about the signs?

MR. EDSALL: Well, we had a discussion before the meeting.

MR. ARGENIO: Dump it on Jennifer.

MS. GALLGHER: Why not?

MR. EDSALL: There's two different beliefs, one is that you can show a sign on the plan and have the planning board approve it even though the sign doesn't meet the code and then if the applicant doesn't get the needed variance, they can't put it that way. I really have a concern with that because then the board is actually taking a position on something that doesn't meet the code.

MR. SARCHINO: That's the difficult part of it.

MR. EDSALL: At minimum, if there was lettered

dimensions on the sign and it had a schedule and said A is our proposal that meets code and they tell the planning board right up front but we're seeking a variance for B, and the planning board says hey, we're approving A but if you get your variance we're okay

58

November 17, 2010

with B as well.

MR. SARCHINO: Any approval you can make the condition that the planning board is not approving the signs and it's up to the approval authorities.

MR. EDSALL: I said show a sign that meets the code dimensionally and show a sign that you're seeking a variance on and the board--

MR. ARGENIO: Don't show the sign that you're seeking a sign on, show the sign that meets the code.

MR. EDSALL: But then do you make them come back if they get another sign approved by the zoning board?

MR. CORDISCO: Yeah, I'm not sure I have some kind of note or clarification that--

MR. ARGENIO: You can't have it both ways, you can't have your cake and eat it too, Mark.

MR. EDSALL: I have seen it done where it says that the dimensions shown meet the code, that's our basic or minimum.

MR. ARGENIO: What else are we missing with this?

MR. EDSALL: Signs, SWPPP, the SWPPP I believe can be solved very quickly because if the particular product they want doesn't meet New York certification, they'll pick another one so that's no big deal. My comments are very minor so I'm really not concerned about him being able to fix those. So the issue really comes down to DOT which they have to ultimately get a permit so--

MS. GALLGHER: I don't want anything to be held up for the signs because with Dunkin Donuts we approved Dunkin Donuts and they had to go for variances for signs and we did it while they were building. So you didn't hold Dunkin Donuts just for the sign variances.

MR. SARCHINO: I understood this was the best way to go about doing this because building department has to approve the signs and if you don't submit something in accordance with the zoning says you have to go to the ZBA.

MR. ARGENIO: Howard, what do you guys think? I think

59

November 17, 2010

I'm on the fence on this, as I said, the plans are quality plans, they are not bad plans, Mr. Sarchino typically does a good job.

MR. EDSALL: Looking at my comments, the sign issue can be resolved, the rest of these issues can be easily handled as conditions.

MR. ARGENIO: Harry? Howard?

MR. BROWN: I'm okay.

MR. FERGUSON: I'm fine with that.

MR. ARGENIO: I agree with Mark, will the storm receptor for lack of a proper term there is a unit that they put in the ground it spins the water and all the stuff flies out of it and there's certain ones that are accepted in New York and there's certain ones that are not, according to Mark, Mr. Sarchino submitted one that's not accepted and just a question of submitting the right one and basic stuff, it's not a big deal. Mark, okay, all this said, I'm going to defer to these guys because I think they are probably right, I think I tend to agree with them, hear me Mark, subject to them showing a sign on the plan that meets code.

MR. EDSALL: However you want to handle it, if you want to have it have a sign that meets code and acknowledge that they may in fact get a variance and put something bigger on.

MR. ARGENIO: Show something that meets code and then get your variance, can you do that?

MR. SARCHINO: I can do that.

MR. ARGENIO: That southeast corner please do that for me and submit to Mark for review, an area with some benches and what's the matter, you're shaking your head?

MR. SARCHINO: I'm just thinking, don't look at me, we're going to do it, we'll do it.

MR. ARGENIO: Concrete.

MR. SARCHINO: I'm sure my clients have no problem with doing that.



November 17, 2010

MR. ARGENIO: Does anybody have any oxygen in the room? I'd like some benches there, some, a concrete something, the idea in this area is to have a pedestrian neighborhood atmosphere, I know it's busy, I know there's a lot of cars, there's a senior center down the road, that's the deal. Okay?

MR. SARCHINO: Okay.

MR. ARGENIO: Mark, what am I missing, oh and the verbiage right in right out subject to right in right out.

MR. EDSALL: You'll modify that curb cut for that configuration.

MR. SARCHINO: Yes, I will.

MR. EDSALL: I just want to point out for the record that the monument sign on Route 300 the applicant has to be very cautious on the final placement of that monument sign so as to not obstruct sight distance, the town code has a performance standard so that if the sign obstructs sight distance you basically have to tear it down and move it to a better location.

MR. SARCHINO: I checked that already but I will look at it again.

MR. EDSALL: But it's, even if it looks good on the plans, the Town Code deals with it as a performance standard. Big V put theirs up and then took it down because it didn't work.

MR. ARGENIO: I'll accept a motion for final approval subject to what I just read in and discussed.

MR. CORDISCO: We would need negative dec.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded we declare negative dec on Walgreen's in Vails Gate.

ROLL CALL

MR. FERGUSON     AYE  
MR. BROWN        AYE

November 17, 2010

MR. GALLAGHER AYE  
MR. ARGENIO AYE

MR. ARGENIO: I'll accept final approval if somebody sees fit subject to Mark's comments and to what we just discussed a few moments ago relative to the right in right out, relative to the small park-like area in the northeast corner. Was that it, Mark?

MR. EDSALL: Revision of the sign.

MR. ARGENIO: And the revision of the signs.

MR. FERGUSON: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded. Roll call.

ROLL CALL

MR. FERGUSON AYE  
MR. BROWN AYE  
MR. GALLAGHER AYE  
MR. ARGENIO AYE

MR. ARGENIO: Thank you.

MR. SARCHINO: Thank you very much.

November 17, 2010

DISCUSSION

MR. ARGENIO: Meadowbrook, go ahead Dominic.

MR. CORDISCO: Meadowbrook is a previously approved subdivision which is currently before the board for modification as a cluster subdivision. The approval has been extended a number of times and has was due to expire on November 13, I think. Today is November 17. In speaking with counsel for Meadowbrook, Michael Bleustein, he indicated to me that they attempted to submit a letter to get on this Planning Board's agenda for an extension of that approval but the approval of course has already expired, it expired on November 13. Given the fact that there are no changes in circumstances at this particular location in terms of zoning or any other requirements and that the board has previously granted reapprovals for this project, it would be my recommendation to the board that you grant reapproval again now which would restart the clock on this project.

MR. ARGENIO: So there's no lawful reason we can't reapprove it, same application as the original one, identical?

MR. CORDISCO: That's correct, I just wish that this would have been brought up for the October meeting but it wasn't and they--

MR. ARGENIO: Unfortunately, our meetings do not occur on the exact date that people's stuff expires.

MR. CORDISCO: Correct, correct, correct but in any event, the board has done this in the past so there's precedent for it and certainly there's no harm done in a sense that the project was pending, it's approved and there's been no changes in laws that would prohibit you from being able to approve it now.

MR. ARGENIO: Are you okay with that?

MR. BROWN: Yes.

MR. GALLAGHER: I'd like to make a motion for reapproval for Meadowbrook Estates

MR. BROWN: Second it.

ROLL CALL

November 17, 2010

MR. FERGUSON    AYE  
MR. BROWN       AYE

MR. GALLAGHER AYE  
MR. ARGENIO AYE

November 17, 2010

64

FORGE HILL - OLD PAPER MILL SITE

MR. EDSALL: Do you have a copy of that letter?

MS. GALLGHER: Do I have it?

MR. EDSALL: I gave one to Jerry and I think--

MR. ARGENIO: What letter?

MR. EDSALL: Forge Hill Road.

MR. ARGENIO: Right, I don't have it it's on my computer, verbalize it, Mark, she can, she'll e-mail it to these guys.

MR. EDSALL: The property on Forge Hill Road we had that applicant appear at the planning board who provides services similar to like a Theater Techniques where it is storage of sets, creation of sets.

MR. GALLGHER: Scenic Technologies.

MR. EDSALL: Very similar, it's a competitor in plain terms. They came to the workshop and they are proposing no outside modifications to the site other than clean it up, fix the building.

MR. ARGENIO: Clean it up, put it on the tax rolls.

MR. EDSALL: Fix the building up, they are working with the bankruptcy court to acquire the property, this is the old paper mill. There are no site plan issues because they are proposing nothing.

MR. ARGENIO: So the letter says we're taking the building, we're going to take it as is, we're not making any site plan approvals, hopefully we don't have to go to the planning board. What's your opinion? We want to come to your town.

MR. EDSALL: So my recommendation is that you refer the matter to the building inspector to deal with the permits and the compliance issues but inasmuch as at this point we have been told there are no outside changes obviously other than they are telling us they are cleaning it up and also working with an environmental consultant to continue the cleanup that's been ongoing, I suggest you refer it to the building inspector and if at some time in the future she

65

November 17, 2010

believes there's a need for it to come to the planning board she'll refer it back.

MR. GALLAGHER: Only thing we need to worry about are traffic issues. Anything else we'd have to worry about?

MR. ARGENIO: The use works.

MR. BROWN: Taking residential roads?

MR. ARGENIO: Meaning what?

MR. BROWN: Like McArthur, cleaning it up, bringing stuff in and out.

MR. ARGENIO: Anything's possible, it's a piece of property, people have the right to use it within the law.

MR. EDSALL: They are proposing no outside modifications or outside uses. If in fact they tell Jen we want to have an operation outside that would be a site plan change, they'll have to come in. They are telling us that they are just going to continue the environmental cleanup, clean up the building, fix the building and work inside.

MR. ARGENIO: Twenty years ago that was a major factory, major factory.

MR. BROWN: I remember it.

MR. GALLGHER: I don't see why the residents around the area wouldn't like that.

MR. ARGENIO: Reporter, where you going? You're going to miss the best part of the meeting, the end.

MR. GALLAGHER: Motion to adjourn.

MR. ARGENIO: Yes, handle it. Everybody all right with that?

MR. EDSALL: You don't want to take any action but just acknowledge it's going to be referred.

MR. ARGENIO: You guys all right with that? It's yours. Motion to adjourn.

66

November 17, 2010

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

RESPECTFULLY SUBMITTED BY

FRANCES ROTH

\* Q STENOGRAPHER